IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.115 OF 2006

Shri Hasnain Abbas Madraswala ..... Appellant.

V/s

Shri Taraprasad Shukla & Anr. ..... Respondents.

Mr. Meghashyam Kocharekar for the appellant.

Mr. Bipin Joshi for Respondent No.1.

Mr. Y.M. Nakhwa, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 24th August, 2007

P.C.:

1. Heard the learned Counsel for the appellant and the learned Counsel for Respondent No.1.

2. This is an application for restoration of the complaint which was dismissed for default on 11/11/2005.

3. In my view, sufficient cause has been shown by the appellant for restoration of the complaint. It appears that the case was transferred from the Court of Metropolitan Magistrate to Special Metropolitan Magistrate, Small Causes Court, Mumbai and after heavy rains on 26th/27th July 2005, the papers of the Appellant were not being traced and, therefore, the appellant was informed on the next date that

the matter is adjourned to 02/01/2006 when, in fact, it was kept on 11/11/2005.

4. The impugned order is set aside. The appellant to pay costs of Rs 1500/- to the respondent No.1 within two weeks from today. Trial Court shall decide the case on merits and in accordance with law.

5. Appeal is accordingly allowed in the above terms.

(V.M. KANADE, J.)